

Short Title: Revised Uniform Athlete Agents Act.

A BILL TO BE ENTITLED

AN ACT TO ENACT THE REVISED UNIFORM ATHLETE AGENTS ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 9 of Chapter 78C of the General Statutes is repealed.

SECTION 2. Chapter 78C of the General Statutes is amended by adding a new Article to read:

"ARTICLE 10.

"REVISED UNIFORM ATHLETE AGENTS ACT.

§ 78C-111. Short title.

This ~~{aet}~~Article may be cited as the Revised Uniform Athlete Agents ~~Aet (2015)-Act.~~

§ 78C-112. Definitions.

~~In this {aet}:~~The following definitions apply in this Article:

(1) ~~"Agency contract" means an~~Agency contract. – An agreement in which a student athlete authorizes a person to negotiate or solicit on behalf of the athlete a professional-sports-services contract or endorsement contract.

(2) ~~"Athlete agent":~~Athletic agent. – Any of the following:

~~(A)a. means an~~An individual, whether or not registered under this ~~{aet}~~Article, who:

~~(i)1. directly~~Directly or indirectly recruits or solicits a student athlete to enter into an agency contract or, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for a student

athlete as a professional athlete or member of a
professional sports team or organization;

~~(ii)2.~~ ~~for~~For compensation or in anticipation of compensation
related to a student athlete's participation in athletics:

(I) ~~serves~~Serves the athlete in an advisory capacity on a
matter related to finances, business pursuits, or
career management decisions, unless the individual
is an employee of an educational institution acting
exclusively as an employee of the institution for the
benefit of the institution; or

(II) ~~manages~~Manages the business affairs of the athlete
by providing assistance with bills, payments,
contracts, or taxes; or

~~(iii)3.~~ ~~in~~In anticipation of representing a student athlete for a
purpose related to the athlete's participation in athletics:

(I) ~~gives~~Gives consideration to the student athlete or
another person;

(II) ~~serves~~Serves the athlete in an advisory capacity on a
matter related to finances, business pursuits, or
career management decisions; or

(III) ~~manages~~Manages the business affairs of the athlete
by providing assistance with bills, payments,
contracts, or taxes; but

(B)b. ~~does~~Does not include an individual who:

(i)1. ~~aets~~Acts solely on behalf of a professional sports team or organization; or

(ii)2. ~~is~~Is a licensed, registered, or certified professional and offers or provides services to a student athlete customarily provided by members of the profession, unless the individual:

(I) ~~also~~Also recruits or solicits the athlete to enter into an agency contract;

(II) ~~also,~~Also, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for the athlete as a professional athlete or member of a professional sports team or organization; or

(III) ~~receives~~Receives consideration for providing the services calculated using a different method than for an individual who is not a student athlete.

(3) ~~"Athletic director" means the~~Athletic director. – The individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate.

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(15) ~~“Recruit or solicit” means attempt~~Recruit or solicit. – Attempt to influence the choice of an athlete agent by a student athlete or, if the athlete is a minor, a parent or guardian of the athlete. The term does not include giving advice on the selection of a particular agent in a family, coaching,

or social situation unless the individual giving the advice does so because of the receipt or anticipated receipt of an economic benefit, directly or indirectly, from the agent.

(16) ~~“Registration” means registration~~Registration. – Registration as an athlete agent under this ~~[act].~~Article.

(17) ~~“Sign” means, with~~Sign. – With present intent to authenticate or adopt a ~~record;~~record, to do any of the following:

(A)~~a. to execute~~Execute or adopt a tangible ~~symbol;~~or symbol.

(B)~~b. to attach~~Attach to or logically associate with the record an electronic symbol, sound, or process.

(18) ~~“State” means a~~State. – A state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(19) ~~“Student athlete” means an~~Student athlete. – An individual who is eligible to attend an educational institution and engages in, is eligible to engage in, or may be eligible in the future to engage in, any interscholastic or intercollegiate sport. The term does not include an individual permanently ineligible to participate in a particular interscholastic or intercollegiate sport for that sport.

Legislative Note: The definitions of “commission” and “compact” are bracketed to reflect alternatives for registration. See the Legislative Note for Alternative A preceding Section 5 [§ 78C-115].

“§ 78C-113. [Secretary of State][Commission]; authority; procedure.

Alternative A (Enacting State Registration System)

(a) ~~The [administrative procedure act]~~ Chapter 150B of the General Statutes applies to this ~~[act]-Article.~~ Article. The ~~[Secretary of State]~~ Secretary of State may adopt rules under the ~~[administrative procedure act]~~ Chapter 150B of the General Statutes to implement this ~~[act]-Article.~~ Article.

Alternative B (Interstate Compact Registration System)

(a) Except as otherwise provided in this ~~[act]-Article.~~ Article., the ~~commission~~ Commission is an agency of the state in which the headquarters of the ~~commission~~ Commission is located and the law of that state, including the law relating to administrative procedure, public records, and public meetings, applies to the ~~commission.~~ Commission. The ~~commission~~ Commission may adopt rules under the [administrative procedure act] of the state in which its headquarters is located to implement this ~~[act]-Article.~~ Article.

End of Alternatives

(b) By acting as an athlete agent in this ~~state,~~ State, a nonresident individual appoints the [Secretary of State] [~~commission~~ Commission] as the individual's agent for service of process in any civil action in this ~~state~~ State related to the individual acting as an athlete agent in this ~~state.~~ State.

~~{~~(c) The [Secretary of State] [~~commission~~ Commission] may issue a subpoena for material that is relevant to the administration of this ~~[act]-~~ Article.

Legislative Note: *There are two alternatives for subsection (a) to reflect the registration option discussed in the Legislative Note for Alternative A preceding Section 5 [§ 78C-115].*

If the administrative procedure act of a state does not give administrative agencies the power to issue a cease and desist order or otherwise prevent continued conduct in violation of the act, the state should consider specifically granting the power to the agency designated as the enforcement agency.

The Secretary of State has been designated as the administrator of existing acts regulating the activities of athlete agents more frequently than any other office. It is recognized, however, that the appropriate state office to administer this act may vary from state to state and, therefore, references to the Secretary of State are in brackets.

Subsection (c) is in brackets because it may not be required under the administrative procedure acts of some states.

"§ 78C-114. Athlete agent; registration required; void contract.

(a) Except as otherwise provided in ~~subsection (b)~~, subsection (b) of this section, an individual may not act as an athlete agent in this ~~state~~State without holding a certificate of registration under this ~~{aet}~~Article.

(b) Before being issued a certificate of registration under this ~~{aet}~~Article, an individual may act as an athlete agent in this ~~state~~State for all purposes except signing an agency contract, ~~if~~if all of the following occur:

(1) ~~a~~A student athlete or another person acting on behalf of the athlete initiates communication with the ~~individual; and~~individual.

(2) ~~not~~Not later than seven days after an initial act that requires the individual to register as an athlete agent, the individual submits an application for registration as an athlete agent in this state.

(c) An agency contract resulting from conduct in violation of this section is void, and the athlete agent shall return any consideration received under the contract.

Alternative A for Sections 5 through 9 [§§ 78C-115 through 78C-119]

(Enacting State Registry)

Legislative Note: There are two alternatives for Sections 5 through 9 [§§ 78C-115 through 78C-119]. Alternative A establishes a registration system in the enacting state which requires the enacting state to register an individual who is registered in another state if the enacting state determines the law of the other state is substantially similar to or more restrictive than the law of the enacting state, the registration in the other state has not been revoked or suspended, and no action involving the agent's conduct as an agent is pending.

Alternative B creates a central registration agency, the Commission on Interstate Registration of Athlete Agents, and provides that states enacting Alternative B will be entering into an interstate compact with other states that enact it.

While the numbering of the sections in the two alternatives is different because Section 5 [§ 78C-115] of Alternative B creates the commission and the contents of Section 9 [§ 78C-119]

are folded into Section 5 [§ 78C-115], the substantive requirements for the initial registration and the basis for denial of registration or the suspension, revocation, or failure to renew registration are identical in both alternatives. Thus, the effect of Alternative B in a state adopting the compact is to delegate the responsibility for the registration of athlete agents and the civil enforcement of the act to a central entity created by the compact. A state adopting Alternative B also will have to amend Section 2 [§ 78C-112] to include the definition of commission for the new central registration agency and the definition of “compact” for the interstate compact, select Alternative B for Section 3(a) [§ 78C-113(a)], add bracketed Section 18 [§ 78C-128] containing language formally creating the Interstate Compact, make conforming changes replacing [Secretary of State] with the commission in Section 17 [§ 78C-127], and make additional conforming changes in Section 4 [§ 78C-114]. Since the operation of Alternative B is conditioned on that alternative being adopted by at least five states, a state that elects to participate in the interstate compact before the interstate compact becomes effective may wish either to continue its existing athlete agent registration program until the interstate compact becomes effective and the commission created by the compact is in operation or enact Alternative A on an interim basis.

§ 78C-115. Registration as athlete agent; application; requirements; reciprocal registration.
SECTION 5.

(a) An applicant for registration as an athlete agent shall submit an application for registration to the ~~[Secretary of State]~~Secretary of State in a form prescribed by the ~~[Secretary of State]~~Secretary of State. The applicant must be an individual, and the application must be signed by the applicant under penalty of perjury. The application must contain at least all of the following:

(1) ~~the~~The name and date and place of birth of the applicant and the following contact information for the applicant:

~~(A)a.~~ a. ~~the~~The address of the applicant’s principal place of ~~business;~~business.

~~(B)b.~~ b. ~~work~~Work and mobile telephone ~~numbers; and~~numbers.

~~(C)c.~~ c. ~~any~~Any means of communicating electronically, including a facsimile number, electronic-mail address, and personal and business or employer ~~websites;~~websites.

- (2) ~~the~~The name of the applicant's business or employer, if applicable, including for each business or employer, its mailing address, telephone number, organization form, and the nature of the ~~business;~~business.
- (3) ~~each~~Each social-media account with which the applicant or the applicant's business or employer is ~~affiliated;~~affiliated.
- (4) ~~each~~Each business or occupation in which the applicant engaged within five years before the date of the application, including self-employment and employment by others, and any professional or occupational license, registration, or certification held by the applicant during that ~~time;~~time.
- (5) ~~a~~A description of the applicant's:
- ~~(A)~~a. ~~formal~~Formal training as an athlete ~~agent;~~agent.
- ~~(B)~~b. ~~practical~~Practical experience as an athlete ~~agent; and~~agent.
- ~~(C)~~c. ~~educational~~Educational background relating to the applicant's activities as an athlete ~~agent;~~agent.
- (6) ~~the~~The name of each student athlete for whom the applicant acted as an athlete agent within five years before the date of the application or, if the individual is a minor, the name of the parent or guardian of the minor, together with the athlete's sport and last-known ~~team;~~team.
- (7) ~~the~~The name and address of each person ~~that;~~that meets all of the following:
- ~~(A)~~a. ~~is~~Is a partner, member, officer, manager, associate, or profit sharer or directly or indirectly holds an equity interest of five percent or greater of the athlete agent's business if it is not a ~~corporation;~~

1 ~~and~~corporation.

2 ~~(B)b.~~ isIs an officer or director of a corporation employing the athlete
3 agent or a shareholder having an interest of five percent or greater
4 in the ~~corporation;~~corporation.

5 (8) ~~a~~A description of the status of any application by the applicant, or any
6 person named under ~~paragraph (7);~~subdivision (7) of this subsection, for a
7 state or federal business, professional, or occupational license, other than
8 as an athlete agent, from a state or federal agency, including any denial,
9 refusal to renew, suspension, withdrawal, or termination of the license and
10 any reprimand or censure related to the ~~license;~~license.

11 (9) ~~whether~~Whether the applicant, or any person named under ~~paragraph~~
12 ~~(7);~~subdivision (7) of this subsection, has pleaded guilty or no contest to,
13 has been convicted of, or has charges pending for, a crime that would
14 involve moral turpitude or be a felony if committed in this ~~state~~State and,
15 if so, identification ~~of;~~of all of the following:

16 ~~(A)a.~~ the crime;The crime.

17 ~~(B)b.~~ theThe law-enforcement agency ~~involved; and~~involved.

18 ~~(C)c.~~ ifIf applicable, the date of the conviction and the fine or penalty
19 ~~imposed;~~imposed.

20 (10) ~~whether,~~Whether, within 15 years before the date of application, the
21 applicant, or any person named under ~~paragraph (7);~~subdivision (7) of this
22 subsection, has been a defendant or respondent in a civil proceeding,
23 including a proceeding seeking an adjudication of [legal incompetence]

and, if so, the date and a full explanation of each proceeding;

(11) ~~whether~~Whether the applicant, or any person named under ~~paragraph (7),~~subdivision (7) of this subsection has an unsatisfied judgment or a judgment of continuing effect, including [alimony] or a domestic order in the nature of child support, which is not current at the date of the ~~application;~~application.

(12) ~~whether~~Whether, within 10 years before the date of application, the applicant, or any person named under ~~paragraph (7),~~subdivision (7) of this subsection, was adjudicated bankrupt or was an owner of a business that was adjudicated ~~bankrupt;~~bankrupt.

(13) ~~whether~~Whether there has been any administrative or judicial determination that the applicant, or any person named under ~~paragraph (7),~~subdivision (7) of this subsection made a false, misleading, deceptive, or fraudulent ~~representation;~~representation.

(14) ~~each~~Each instance in which conduct of the applicant, or any person named under ~~paragraph (7),~~subdivision (7) of this subsection, resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic event on a student athlete or a sanction on an educational ~~institution;~~institution.

(15) ~~each~~Each sanction, suspension, or disciplinary action taken against the applicant, or any person named under ~~paragraph (7),~~subdivision (7) of this subsection, arising out of occupational or professional ~~conduct;~~conduct.

(16) ~~whether~~Whether there has been a denial of an application for, suspension or revocation of, refusal to renew, or abandonment of, the registration of the applicant, or any person named under ~~paragraph (7); subdivision (7) of this subsection~~ as an athlete agent in any ~~state; state.~~

(17) ~~each~~Each state in which the applicant currently is registered as an athlete agent or has applied to be registered as an athlete ~~agent; agent.~~

(18) ~~if~~If the applicant is certified or registered by a professional league or players ~~association; association, all of the following:~~

~~(A)a.~~ ~~the~~The name of the league or ~~association; association.~~

~~(B)b.~~ ~~the~~The date of certification or registration, and the date of expiration of the certification or registration, ~~if any; and if any.~~

~~(C)c.~~ ~~if~~If applicable, the date of any denial of an application for, suspension or revocation of, refusal to renew, withdrawal of, or termination of, the certification or registration or any reprimand or censure related to the certification or ~~registration; and registration.~~

(19) ~~any~~Any additional information required by the ~~{Secretary of State}; Secretary of State.~~

(b) Instead of proceeding under ~~subsection (a); subsection (a) of this section,~~ an individual registered as an athlete agent in another state may apply for registration as an athlete agent in this ~~state~~State by submitting to the ~~{Secretary of State}; Secretary of State~~ all of the following:

(1) ~~a~~A copy of the application for registration in the other ~~state; state.~~

(2) ~~a~~A statement that identifies any material change in the information on the

application or verifies there is no material change in the information,
signed under penalty of ~~perjury; and~~perjury.

(3) ~~a~~A copy of the certificate of registration from the other state.

(c) The ~~[Secretary of State]~~Secretary of State shall issue a certificate of registration to
an individual who applies for registration under ~~subsection (b) if the [Secretary of State]~~
~~determines;~~subsection (b) of this section if the Secretary of State determines all of the following:

(1) ~~the~~The application and registration requirements of the other state are
substantially similar to or more restrictive than this ~~{act}; and~~Article.

(2) ~~the~~The registration has not been revoked or suspended and no action
involving the individual's conduct as an athlete agent is pending against
the individual or the individual's registration in any state.

(d) For purposes of implementing ~~subsection (c), the [Secretary of State]~~
~~shall;~~subsection (c) of this section, the Secretary of State shall do all of the following:

(1) ~~cooperate~~Cooperate with national organizations concerned with athlete
agent issues and agencies in other states which register athlete agents to
develop a common registration form and determine which states have laws
that are substantially similar to or more restrictive than this ~~{act};~~
~~and~~Article.

(2) ~~exchange~~Exchange information, including information related to actions
taken against registered athlete agents or their registrations, with those
organizations and agencies.

1 "**§ 78C-116. Certificate of registration; issuance or denial; renewal.**

2 (a) Except as otherwise provided in ~~subsection (b)~~subsection (b) of this section, the
3 ~~[Secretary of State]~~Secretary of State shall issue a certificate of registration to an applicant for
4 registration who complies with ~~Section 5(a)~~G.S. 78C-115(a).

5 (b) The ~~[Secretary of State]~~Secretary of State may refuse to issue a certificate of
6 registration to an applicant for registration under ~~Section 5(a)~~G.S. 78C-115(a) if the ~~[Secretary of~~
7 ~~State]~~Secretary of State determines that the applicant has engaged in conduct that significantly
8 adversely reflects on the applicant's fitness to act as an athlete agent. In making the
9 determination, the ~~[Secretary of State]~~Secretary of State may consider whether the applicant has:

10 (1) ~~pleaded~~Pleaded guilty or no contest to, has been convicted of, or has
11 charges pending for, a crime that would involve moral turpitude or be a
12 felony if committed in this ~~state~~State.

13 (2) ~~made~~Made a materially false, misleading, deceptive, or fraudulent
14 representation in the application or as an athlete ~~agent~~agent.

15 (3) ~~engaged~~Engaged in conduct that would disqualify the applicant from
16 serving in a fiduciary ~~capacity~~capacity.

17 (4) ~~engaged~~Engaged in conduct prohibited by ~~Section 14~~G.S. 78C-114.

18 (5) ~~had~~Had a registration as an athlete agent suspended, revoked, or denied in
19 any ~~state~~state.

20 (6) ~~been~~Been refused renewal of registration as an athlete agent in any
21 ~~state~~state.

22 (7) ~~engaged~~Engaged in conduct resulting in imposition of a sanction,
23 suspension, or declaration of ineligibility to participate in an

interscholastic, intercollegiate, or professional athletic event on a student athlete or a sanction on an educational ~~institution; or~~ institution.

(8) ~~engaged~~ Engaged in conduct that adversely reflects on the applicant's credibility, honesty, or integrity.

(c) In making a determination under ~~subsection (b), the [Secretary of State]~~ subsection (b) of this section, the Secretary of State shall ~~consider;~~ consider all of the following:

(1) ~~how~~ How recently the conduct ~~occurred;~~ occurred.

(2) ~~the~~ The nature of the conduct and the context in which it ~~occurred;~~ and occurred.

(3) ~~other~~ Other relevant conduct of the applicant.

(d) An athlete agent registered under ~~subsection (a)~~ subsection (a) of this section may apply to renew the registration by submitting an application for renewal in a form prescribed by the ~~[Secretary of State];~~ Secretary of State. The applicant shall sign the application for renewal under penalty of perjury and include current information on all matters required in an original application for registration.

(e) An athlete agent registered under ~~Section 5(e)~~ G.S. 78C-115(c) may renew the registration by proceeding under ~~subsection (d)~~ subsection (d) of this section or, if the registration in the other state has been renewed, by submitting to the ~~[Secretary of State];~~ Secretary of State copies of the application for renewal in the other state and the renewed registration from the other state. The ~~[Secretary of State];~~ Secretary of State shall renew the registration if the ~~[Secretary of State] determines;~~ Secretary of State determines all of the following:

(1) ~~the~~ The registration requirements of the other state are substantially similar to or more restrictive than this ~~[act]; and~~ Article.

(2) ~~the~~The renewed registration has not been suspended or revoked and no action involving the individual's conduct as an athlete agent is pending against the individual or the individual's registration in any state.

(f) A certificate of registration or renewal of registration under this ~~act~~Article is valid for [two] years.

"§ 78C-117. Suspension, revocation, or refusal to renew registration.

(a) The ~~{Secretary of State}~~Secretary of State may limit, suspend, revoke, or refuse to renew a registration of an individual registered under ~~Section 6(a)~~G.S. 78C-116(a) for conduct that would have justified refusal to issue a certificate of registration under ~~Section 6(b)~~G.S. 78C-116(b).

(b) The ~~{Secretary of State}~~Secretary of State may suspend or revoke the registration of an individual registered under ~~Section 5(e)~~G.S. 78C-115(c) or renewed under ~~Section 6(e)~~G.S. 78C-116(e) for any reason for which the ~~{Secretary of State}~~Secretary of State could have refused to grant or renew registration or for conduct that would justify refusal to issue a certificate of registration under ~~Section 6(b)~~G.S. 78C-116(b).

"§ 78C-118. Temporary registration.

The ~~{Secretary of State}~~Secretary of State may issue a temporary certificate of registration as an athlete agent while an application for registration or renewal of registration is pending.

"§ 78C-119. Registration and renewal fees.

An application for registration or renewal of registration as an athlete agent must be accompanied by a fee in the following amount:

(1) ~~[\$] for an initial application for registration;~~Initial application for

registration \$200.00

(2) ~~[\$] for registration based on a certificate of registration issued by another~~

~~state;~~ Application for registration based on a certificate of registration

issued by another state \$200.00

(3) ~~[\$] for an application for renewal of registration; or~~ Application for

renewal of registration \$200.00

(4) ~~[\$] for renewal of registration based on a renewal of registration in~~

~~another state.~~ Application for renewal of registration based on a renewal of

registration in another state \$200.00

Alternative B for Sections 5 through 9 [§§ 78C-115 through 78C-119]

(Interstate Compact Registry)

***Legislative Note:** As discussed in the Legislative Note for Alternative A, a state adopting Alternative B also will have to amend Section 2 [§ 78C-112] to include the definition of commission for the new central registration agency and the definition of “compact” for the interstate compact, select Alternative B for Section 3(a) [§ 78C-113(a)], add bracketed Section 18 [§ 78C-128] containing language formally creating the Interstate Compact, make conforming changes replacing [Secretary of State] with the commission in Section 17 [§ 78C-1287], and make additional conforming changes in Section 4 [§ 78C-114]. Since the operation of Alternative B is conditioned on that alternative being adopted by at least five states, a state that elects to participate in the interstate compact before the interstate compact becomes effective may wish either to continue its existing athlete agent registration program until the interstate compact becomes effective and the commission created by the compact is in operation or enact Alternative A on an interim basis.*

"78C-115. Commission on Interstate Registration of Athlete Agents.

(a) The Commission on Interstate Registration of Athlete Agents is created. The ~~commission~~ Commission is a body corporate and joint agency of the states that enact an act substantially similar to this ~~act~~ Article. The ~~commission~~ Commission consists of one member from each state that enacts such an act appointed by the ~~Governor~~ governor of that state.

(b) The first meeting of the ~~commission~~ Commission must be held not later than 90

1 days after the fifth state enacts an act substantively similar to this ~~{act};~~Article. A majority of the
2 states that enact such an act constitutes a quorum for the conduct of business.

3 (c) At its first meeting, the ~~commission~~Commission shall adopt bylaws that provide
4 ~~for~~all of the following:

5 (1) ~~an~~An executive committee to manage day-to-day affairs of the
6 ~~commission;~~Commission.

7 (2) ~~the~~The operation of the ~~commission;~~Commission, including employment
8 of necessary ~~staff;~~staff.

9 (3) ~~maintaining~~Maintaining a location for the registration of athlete agents in
10 the states that enact an act substantially similar to this ~~{act};~~Article.

11 (4) ~~establishing~~Establishing the registration fee and the apportionment of the
12 fee among the states that enact an act substantially similar to this ~~{act};~~
13 ~~and~~Article.

14 (5) ~~any~~Any other matter necessary for efficient operation of the
15 ~~commission;~~Commission.

16 (d) The ~~commission;~~Commission:

17 (1) ~~shall~~Shall pay or provide for payment of the reasonable expenses of the
18 establishment, organization, and ongoing activities of the
19 ~~commission;~~Commission.

20 (2) ~~may~~May accept a grant of money, equipment, supplies, materials, or
21 services and ~~donations;~~donations.

22 (3) ~~may~~May assess each member state annually on a basis determined by the
23 ~~commission~~Commission to cover operation costs of the

~~commission~~Commission not funded by registration fees imposed under
~~subsection (e)(4); subdivision (4) of subsection (c) of this section.~~

(4) ~~may~~May not incur an obligation before securing funds adequate to meet
the ~~obligation; obligation.~~

(5) ~~may~~May not pledge the credit of a member state, except with the authority
of the member ~~state; and~~state.

(6) ~~shall~~Shall keep an accurate account of receipts and disbursements, under
audit and accounting procedures established under the
~~commission's~~Commission's bylaws.

(e) The receipt and disbursement of funds by the ~~commission~~Commission must be
audited yearly by a certified or licensed public accountant, and the ~~commission~~Commission shall
include the audit report in an annual report of the ~~commission~~Commission.

"§ 78C-116. Registration as athlete agent; application; requirements.

An applicant for registration as an athlete agent shall submit an application for
registration to the ~~commission~~Commission in a form prescribed by the ~~commission~~Commission.
The applicant must be an individual, and the application must be signed by the applicant under
penalty of perjury. The application must contain at least all of the following:

(1) ~~the~~The name and date and place of birth of the applicant and the following
contact information for the applicant:

~~(A)a.~~ ~~the~~The address of the applicant's principal place of
~~business; business.~~

~~(B)b.~~ ~~work~~Work and mobile telephone ~~numbers; and~~numbers.

~~(C)c.~~ ~~any~~Any means of communicating electronically, including a

facsimile number, electronic-mail address, and personal and
business or employer ~~websites;~~websites.

(2) ~~the~~The name of the applicant's business or employer, if applicable,
including for each business or employer, its mailing address, telephone
number, organization form, and the nature of the ~~business;~~business.

(3) ~~each~~Each social-media account with which the applicant or the applicant's
business or employer is ~~affiliated;~~affiliated.

(4) ~~each~~Each business or occupation in which the applicant engaged within
five years before the date of the application, including self-employment
and employment by others, and any professional or occupational license,
registration, or certification held by the applicant during that ~~time;~~time.

(5) ~~a~~A description of the applicant's:

~~(A)~~a. ~~formal~~Formal training as an athlete ~~agent;~~agent.

~~(B)~~b. ~~practical~~Practical experience as an athlete ~~agent; and~~agent.

~~(C)~~c. ~~educational~~Educational background relating to the applicant's
activities as an athlete agent;

(6) ~~the~~The name of each student athlete for whom the applicant acted as an
athlete agent within five years before the date of the application or, if the
athlete is a minor, the name of the parent or guardian of the minor,
together with the athlete's sport and last-known ~~team;~~team.

(7) ~~the~~The name and address of each person ~~that;~~that meets all of the
following:

(A) ~~is~~Is a partner, member, officer, manager, associate, or profit sharer

or directly or indirectly holds an equity interest of five percent or greater of the athlete agent's business if it is not a ~~corporation;~~
~~and corporation.~~

(B) ~~is~~Is an officer or director of a corporation employing the athlete agent or a shareholder having an interest of five percent or greater in the ~~corporation;~~corporation.

(8) ~~a~~A description of the status of any application by the applicant, or any person named under ~~paragraph (7);~~subdivision (7) of this subsection, for a state or federal business, professional, or occupational license, other than as an athlete agent, including any denial, refusal to renew, suspension, withdrawal, or termination of the license and any reprimand or censure related to the ~~license;~~license.

(9) ~~whether~~Whether the applicant, or any person named under ~~paragraph (7);~~subdivision (7) of this subsection, has pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime involving moral turpitude or which is a felony and, if so, ~~identify;~~identify all of the following:

(A) ~~the crime;~~The crime.

(B) ~~the~~The law-enforcement agency ~~involved;~~and involved.

(C) ~~if~~If applicable, the date of the conviction and the fine or penalty ~~imposed;~~imposed.

(10) ~~whether;~~Whether, within 15 years before the date of application, the applicant, or any person named under ~~paragraph (7);~~subdivision (7) of this

- 1 subsection, has been a defendant or respondent in a civil proceeding,
2 including a proceeding seeking an adjudication of legal incompetence,
3 and, if so, the date and a full explanation of each ~~proceeding~~proceeding.
- 4 (11) ~~whether~~Whether the applicant, or any person named under ~~paragraph~~
5 ~~(7)~~subdivision (7) of this subsection, has an unsatisfied judgment or a
6 judgment of continuing effect, including alimony or a domestic order in
7 the nature of child support, which is not current at the date of the
8 ~~application~~application.
- 9 (12) ~~whether~~Whether, within 10 years before the date of application, the
10 applicant, or any person named under ~~paragraph (7)~~subdivision (7) of this
11 subsection was adjudicated bankrupt or was an owner of a business that
12 was adjudicated ~~bankrupt~~bankrupt.
- 13 (13) ~~whether~~Whether there has been any administrative or judicial
14 determination that the applicant, or any person named under ~~paragraph~~
15 ~~(7)~~subdivision (7) of this subsection, made a false, misleading, deceptive,
16 or fraudulent ~~representation~~representation.
- 17 (14) ~~each~~Each instance in which conduct of the applicant, or any person named
18 under ~~paragraph (7)~~subdivision (7) of this subsection, resulted in the
19 imposition of a sanction, suspension, or declaration of ineligibility to
20 participate in an interscholastic, intercollegiate, or professional athletic
21 event on a student athlete or a sanction on an educational
22 ~~institution~~institution.
- 23 (15) ~~each~~Each sanction, suspension, or disciplinary action taken against the

applicant, or any person named under ~~paragraph (7);~~subdivision (7) of this subsection arising out of occupational or professional ~~conduct;~~conduct.

(16) ~~whether~~Whether there has been a denial of an application for, suspension or revocation of, refusal to renew, or abandonment of, the registration of the applicant, or any person named under ~~paragraph (7);~~subdivision (7) of this subsection as an athlete agent in any ~~state;~~state.

(17) ~~each~~Each state in which the applicant currently is registered as an athlete agent or has applied to be registered as an athlete ~~agent;~~agent.

(18) ~~if~~If the applicant is certified or registered by a professional league or players ~~association;~~association, all of the following:

(A) ~~the~~The name of the league or ~~association;~~association.

(B) ~~the~~The date of certification or registration, and the date of expiration of the certification or registration, if ~~any;~~ and any.

(C) ~~if~~If applicable, the date of any denial of an application for, suspension or revocation of, refusal to renew, withdrawal of, or termination of, the certification or registration or any reprimand or censure related to the certification or ~~registration;~~ and registration.

(19) ~~any~~Any additional information required by the ~~commission.~~Commission.

Legislative Note: Paragraphs (10) and (11) use the terms “legal incompetence” and “alimony”. If those are not the appropriate terms for a state, the insertion of the state specific terms is not intended to be a deviation from the substantially similar requirement for the adoption of the Interstate Compact.

§ 78C-117. Certificate of registration; issuance or denial; renewal.

(a) Except as otherwise provided in ~~subsection (b);~~subsection (b) of this section, the ~~commission~~Commission shall issue a certificate of registration to an applicant for registration

who complies with ~~Section 6~~G.S. 78C-116.

(b) The ~~commission~~Commission may refuse to issue a certificate of registration to an applicant for registration under ~~Section 6~~G.S. 78C-116 if the ~~commission~~Commission determines that the applicant has engaged in conduct that significantly adversely reflects on the applicant's fitness to act as an athlete agent. In making the determination, the ~~commission~~Commission may consider whether the applicant has:

- (1) ~~pleaded~~Pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime involving moral turpitude or which is a ~~felony~~felony.
- (2) ~~made~~Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete ~~agent~~agent.
- (3) ~~engaged~~Engaged in conduct that would disqualify the applicant from serving in a fiduciary ~~capacity~~capacity.
- (4) ~~engaged~~Engaged in conduct prohibited by ~~Section 14~~G.S. 78C-114.
- (5) ~~had~~Had a registration as an athlete agent suspended, revoked, or denied in any ~~state~~state.
- (6) ~~been~~Been refused renewal of registration as an athlete agent in any ~~state~~state.
- (7) ~~engaged~~Engaged in conduct resulting in imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic event on a student athlete or a sanction on an educational ~~institution~~institution.
- (8) ~~engaged~~Engaged in conduct that adversely reflects on the applicant's

credibility, honesty, or integrity.

(c) In making a determination under ~~subsection (b)~~subsection (b) of this section, the ~~commission~~Commission shall consider:

(1) ~~how~~How recently the conduct ~~occurred~~occurred.

(2) ~~the~~The nature of the conduct and the context in which it ~~occurred~~and occurred.

(3) ~~other~~Other relevant conduct of the applicant.

(d) An athlete agent registered under ~~subsection (a)~~subsection (a) of this section may apply to renew the registration by submitting an application for renewal in a form prescribed by the ~~commission~~Commission. The applicant shall sign the application for renewal under penalty of perjury and include current information on all matters required in an original application for registration.

(e) A certificate of registration or a renewal of registration under this ~~act~~Article is valid for [two] years.

"§ 78C-118. Limitation, suspension, revocation, or refusal to renew registration.

The ~~commission~~Commission may limit, suspend, revoke, or refuse to renew a registration of an individual registered under ~~Section 7~~G.S. 78C-117 for conduct that would have justified refusal to issue a certificate of registration under ~~Section 7(b)~~G.S. 78C-117(b).

"§ 78C-119. Temporary registration.

The ~~commission~~Commission may issue a temporary certificate of registration as an athlete agent while an application for registration or renewal of registration is pending.

End of Alternatives

1 |
2 **"§ 78C-120. Required form of agency contract.**

3 (a) An agency contract must be in a record signed by the parties.

4 (b) An agency contract must ~~contain~~contain all of the following:

5 (1) ~~a~~A statement that the athlete agent is registered as an athlete agent in this
6 ~~state~~State and a list of any other states in which the agent is registered as
7 an athlete ~~agent~~agent.

8 (2) ~~the~~The amount and method of calculating the consideration to be paid by
9 the student athlete for services to be provided by the agent under the
10 contract and any other consideration the agent has received or will receive
11 from any other source for entering into the contract or providing the
12 ~~services~~services.

13 (3) ~~the~~The name of any person not listed in the agent's application for
14 registration or renewal of registration which will be compensated because
15 the athlete signed the ~~contract~~contract.

16 (4) ~~a~~A description of any expenses the athlete agrees to ~~reimburse~~reimburse.

17 (5) ~~a~~A description of the services to be provided to the ~~athlete~~athlete.

18 (6) ~~the~~The duration of the ~~contract~~and contract.

19 (7) ~~the~~The date of execution.

20 (c) Subject to ~~subsection (g)~~subsection (g) of this section, an agency contract must

contain a conspicuous notice in boldface type and in substantially the following form:

WARNING TO STUDENT ATHLETE

IF YOU SIGN THIS CONTRACT:

**(1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT
ATHLETE IN YOUR SPORT;**

**(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER
SIGNING THIS CONTRACT OR BEFORE THE NEXT SCHEDULED ATHLETIC
EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST, BOTH YOU
AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR THAT
YOU HAVE ENTERED INTO THIS CONTRACT AND PROVIDE THE NAME AND
CONTACT INFORMATION OF THE ATHLETE AGENT; AND**

**(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER
SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE
YOUR ELIGIBILITY AS A STUDENT ATHLETE IN YOUR SPORT.**

**(d) An agency contract must be accompanied by a separate record signed by the
student athlete or, if the athlete is a minor, the parent or guardian of the athlete acknowledging
that signing the contract may result in the loss of the athlete's eligibility to participate in the
athlete's sport.**

**(e) A student athlete or, if the athlete is a minor, the parent or guardian of the athlete
may void an agency contract that does not conform to this section. If the contract is voided, any
consideration received from the athlete agent under the contract to induce entering into the
contract is not required to be returned.**

**(f) At the time an agency contract is executed, the athlete agent shall give the student
athlete or, if the athlete is a minor, the parent or guardian of the athlete a copy in a record of the**

contract and the separate acknowledgement required by ~~subsection (d)~~subsection (d) of this section.

(g) If a student athlete is a minor, an agency contract must be signed by the parent or guardian of the minor and the notice required by ~~subsection (e)~~subsection (c) of this section must be revised accordingly.

"§ 78C-121. Notice to educational institution.

(a) In this section, “communicating or attempting to communicate” means contacting or attempting to contact by an in-person meeting, a record, or any other method that conveys or attempts to convey a message.

(b) Not later than 72 hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the athlete is enrolled or at which the agent has reasonable grounds to believe the athlete intends to enroll.

(c) Not later than 72 hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete shall inform the athletic director of the educational institution at which the athlete is enrolled that the athlete has entered into an agency contract and the name and contact information of the athlete agent.

(d) If an athlete agent enters into an agency contract with a student athlete and the athlete subsequently enrolls at an educational institution, the agent shall notify the athletic director of the institution of the existence of the contract not later than 72 hours after the agent knew or should have known the athlete enrolled.

(e) If an athlete agent has a relationship with a student athlete before the athlete enrolls in an educational institution and receives an athletic scholarship from the institution, the agent shall notify the institution of the relationship not later than 10 days after the enrollment if the agent knows or should have known of the enrollment and:

(1) ~~the~~The relationship was motivated in whole or part by the intention of the agent to recruit or solicit the athlete to enter an agency contract in the future; or

(2) ~~the~~The agent directly or indirectly recruited or solicited the athlete to enter an agency contract before the enrollment.

(f) An athlete agent shall give notice in a record to the athletic director of any educational institution at which a student athlete is enrolled before the agent communicates or attempts to communicate with:

(1) ~~the~~The athlete or, if the athlete is a minor, a parent or guardian of the athlete, to influence the athlete or parent or guardian to enter into an agency contract; or

(2) ~~another~~Another individual to have that individual influence the athlete or, if the athlete is a minor, the parent or guardian of the athlete to enter into an agency contract.

(g) If a communication or attempt to communicate with an athlete agent is initiated by a student athlete or another individual on behalf of the athlete, the agent shall notify in a record the athletic director of any educational institution at which the athlete is enrolled. The notification must be made not later than 10 days after the communication or attempt.

(h) An educational institution that becomes aware of a violation of this ~~fact~~Article by

an athlete agent shall notify the [Secretary of State] [~~commission~~Commission] and any professional league or players association with which the institution is aware the agent is licensed or registered of the violation.

"§ 78C-122. Student athlete's right to cancel.

(a) A student athlete or, if the athlete is a minor, the parent or guardian of the athlete may cancel an agency contract by giving notice in a record of cancellation to the athlete agent not later than 14 days after the contract is signed.

(b) A student athlete or, if the athlete is a minor, the parent or guardian of the athlete may not waive the right to cancel an agency contract.

(c) If a student athlete, parent, or guardian cancels an agency contract, the athlete, parent, or guardian is not required to pay any consideration under the contract or return any consideration received from the athlete agent to influence the athlete to enter into the contract.

"§ 78C-123. Required records.

(a) An athlete agent shall create and retain for five years records ~~of~~of all of the following:

(1) ~~the~~The name and address of each individual represented by the ~~agent;~~agent.

(2) ~~each~~Each agency contract entered into by the ~~agent; and~~agent.

(3) ~~the~~The direct costs incurred by the agent in the recruitment or solicitation of each student athlete to enter into an agency contract.

(b) Records described in ~~subsection (a)~~subsection (a) of this section are open to inspection by the [Secretary of State] [~~commission~~Commission] during normal business hours.

1 **"§ 78C-124. Prohibited conduct.**

2 (a) An athlete agent, with the intent to influence a student athlete or, if the athlete is a
3 minor, a parent or guardian of the athlete to enter into an agency contract, may not take any of
4 the following actions or encourage any other individual to take or assist any other individual in
5 taking any of the following actions on behalf of the agent:

- 6 (1) ~~give~~Give materially false or misleading information or make a materially
7 false promise or ~~representation~~representation.
8 (2) ~~furnish~~Furnish anything of value to the athlete before the athlete enters
9 into the ~~contract~~or contract.
10 (3) ~~furnish~~Furnish anything of value to an individual other than the athlete or
11 another registered athlete agent.

12 (b) An athlete agent may not intentionally do any of the following or encourage any
13 other individual to do any of the following on behalf of the agent:

- 14 (1) ~~initiate~~Initiate contact, directly or indirectly, with a student athlete or, if
15 the athlete is a minor, a parent or guardian of the athlete, to recruit or
16 solicit the athlete, parent, or guardian to enter an agency contract unless
17 registered under this ~~act~~Article.
18 (2) ~~fail~~Fail to create or retain or to permit inspection of the records required
19 by ~~Section 13~~G.S. 78C-123.
20 (3) ~~fail~~Fail to register when required by ~~Section 4~~G.S. 78C-114.
21 (4) ~~provide~~Provide materially false or misleading information in an
22 application for registration or renewal of ~~registration~~registration.
23 (5) ~~predate~~Predate or postdate an agency ~~contract~~or contract.

(6) ~~fail~~Fail to notify a student athlete or, if the athlete is a minor, a parent or guardian of the athlete, before the athlete, parent, or guardian signs an agency contract for a particular sport that the signing may make the athlete ineligible to participate as a student athlete in that sport.

"§ 78C-125. Criminal penalty.

An athlete agent who violates ~~Section 14~~G.S. 78C-124 is guilty of a ~~[misdemeanor]~~
~~[felony] and, on conviction, is punishable by [—].~~Class I felony.

Legislative Note: Each state should determine the penalties to be imposed for a violation of the act. A state may wish to include a suspension or revocation of the registration as a part of the penalty and also may wish to dedicate all or a part of any fine to the enforcement of the act (see, for example, Section 18897.93, California Business and Professions Code).

"§ 78C-126. Civil remedy.

(a) An educational institution or student athlete may bring an action for damages against an athlete agent if the institution or athlete is adversely affected by an act or omission of the agent in violation of this ~~[act]~~Article. An educational institution or student athlete is adversely affected by an act or omission of the agent only if, because of the act or omission, the institution or an individual who was a student athlete at the time of the act or omission and enrolled in the institution:

(1) ~~is~~Is suspended or disqualified from participation in an interscholastic or intercollegiate [sports] event by or under the rules of a state or national federation or association that promotes or regulates interscholastic or intercollegiate sports; or

(2) ~~suffers~~Suffers financial damage.

(b) A plaintiff that prevails in an action under this section may recover [actual damages] [treble damages] [,] [punitive damages,] [and] costs[, and reasonable attorney's fees].

An athlete agent found liable under this section forfeits any right of payment for anything of benefit or value provided to the student athlete and shall refund any consideration paid to the agent by or on behalf of the athlete.

[(c) A violation of this ~~faet~~Article is an [unfair trade or deceptive practice] for purposes of [insert reference to state's unfair trade practices law].]

***Legislative Note:** If a state has a law that prohibits unfair or deceptive trade practices and provides for civil enforcement by a state agency or persons, including competitors, injured by the practice, the appropriate name for the practice and statutory citation to the applicable law should replace the bracketed language. The drafting rules in some states prohibit what is an amendment by reference and may require the unfair or deceptive trade practices act be amended. In that case, the bill should contain an appropriate amendment of the specific law and subsection (c) should be deleted. Similarly, if a state does not have an unfair or deceptive trade practices law, subsection (c) should be deleted or substantially expanded to provide for civil enforcement by a state agency, affected members of the public, and competitors.*

"§ 78C-127. Civil penalty.

The [Secretary of State] [~~commission~~Commission] may assess a civil penalty against an athlete agent not to exceed \$[50,000] for a violation of this ~~faet~~Article.

["§ 78C-128. Interstate Compact for Registration of Athlete Agents.

(a) In enacting this ~~faet~~Article, this ~~state~~State adopts the Interstate Compact for Registration of Athlete Agents and agrees to participate with other states enacting those provisions in maintaining the Commission on Interstate Registration of Athlete Agents.

(b) Once effective, the compact continues in force and, except as otherwise provided in ~~subsection (e), subsection (c) of this section,~~ remains binding on each member state.

(c) A member state may withdraw from the compact by repealing the portions of the statute that enacted the compact into law. The withdrawal may not take effect until one year after the effective date of the statute that repeals the portions of the statute that enacted the compact into law and until written notice of the withdrawal has been given by the Governor and

Secretary of State of the withdrawing state to the Governor and Secretary of State of each member state.

(d) A member state immediately shall notify the executive director of the ~~commission~~Commission in a record of the introduction of legislation to repeal the compact in the member state. Not later than 60 days after receipt of the notice, the executive director shall notify other member states of the introduction of the legislation.

(e) A state withdrawing from the compact under ~~subsection (e)~~subsection (c) of this section is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including obligations the performance of which extend beyond the effective date of withdrawal.

(f) The compact is dissolved effective on the date of the withdrawal of the member state that reduces the membership in the compact to fewer than five states. On dissolution, the compact has no further effect, and the affairs of the ~~commission~~Commission must be concluded and assets distributed in accordance with the ~~commission's~~Commission's bylaws.]

"§ 78C-129. Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

"§ 78C-130. Relation to Electronic Signatures in Global and National Commerce Act.

This ~~[act]~~Article modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103 (b) of that act, 15 U.S.C. Section 7003(b).

~~**[SECTION 21. SEVERABILITY. If any provision of this [act] or its application to**~~

~~any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [act] which can be given effect without the invalid provision or application, and to this end the provisions of this [act] are severable.]~~

Legislative Note: Include this section only if this state lacks a general severability statute or a decision by the highest court of this state stating a general rule of severability.

SECTION 3. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

SECTION 4. The Revisor of Statutes shall cause to be printed, as annotations to the published General Statutes, all relevant portions of the Official Comments to the Revised Uniform Athlete Agents Act (2015) and all explanatory comments of the drafters of this act as the Revisor may deem appropriate.

SECTION 5. This act becomes effective [_____].